

Amendment No. 1 to SB1084

Bell
Signature of Sponsor

AMEND Senate Bill No. 1084

House Bill No. 880*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 4-29-241(a), is amended by inserting the following new subdivision:

() Court fee and tax advisory council, created by § 16-23-101;

SECTION 2. Tennessee Code Annotated, Title 16, is amended by adding the following new part:

16-23-101.

There is established a court fee and tax advisory council, which shall consist of:

(1) One (1) chancellor, one (1) circuit court judge, and one (1) criminal court judge, to be selected by a majority vote of the judges of the supreme court;

(2) One (1) general sessions court judge to be selected by a majority vote of the members of the board of governors of the Tennessee general sessions judges' conference;

(3) One (1) juvenile court judge to be selected by a majority vote of the executive committee of the Tennessee council of juvenile and family court judges;

(4) The administrative director of the courts, who shall serve as an ex officio member;

(5) Two (2) attorneys licensed to practice law in the state of Tennessee who have each practiced law at least three (3) years in the state, one (1) of

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whom shall be selected by the speaker of the house of representatives and one
(1) of whom shall be selected by the speaker of the senate; and

(6) One (1) clerk of a civil court and one (1) clerk of a criminal court, to be
selected by the president of the state court clerks' conference.

16-23-102.

The term of each of the members of the council, except the administrative
director of the courts, shall be for a period of four (4) years from the date of their
respective appointments. All vacancies shall be filled for the remainder of any term by
appointment by the person or body having the original power of appointment. No
member whose term is set at four (4) years shall serve more than two (2) full
consecutive terms. The member shall, however, be eligible for reappointment after an
absence from the court fee and tax advisory council of at least one (1) year.

16-23-103.

The council shall have and possess the power, whenever any member of the
council fails to attend two (2) consecutive regular meetings of the council without
sufficient excuse for failure to attend, after due notice and hearing, if requested, to
declare that member's place on the council vacant and to certify the fact of the vacancy
to the person or body charged with the right to fill such vacancies, and such appointing
power shall proceed to fill the vacancy upon receipt of due notice.

16-23-104.

(a) The council shall elect a chair from among the members.

(b) The council may make, and from time to time modify, the rules for its procedure and the conduct of its business.

(c) The administrative office of the courts (AOC) may employ such staff as is necessary to support the council in its duties.

(d) The AOC may procure such office supplies, and may incur such other expenses, as is necessary to support the council in the performance of its duties.

16-23-105.

The council shall meet once every month in Nashville when the general assembly is in legislative session. Members shall be permitted to attend meetings from a remote location by telephone, television, teleconference, or other electronic means. Other meetings, either regular or special, may be provided for by rules adopted by the council.

16-23-106.

(a) The clerks of the senate and house of representatives shall submit to the council for consideration any bills that propose a new litigation tax or fee or an increase in an existing litigation tax or fee, upon introduction of the bills. Any bills that are amended to propose a new litigation tax or fee or an increase in an existing litigation tax or fee shall be submitted by the clerks to the council for consideration once the amendment is adopted by a standing committee.

(b) It is the duty of the council to:

(1) Consider and report in a timely manner to the members of the general assembly the council's recommendation concerning any pending legislation proposing the creation of a litigation tax or fee on any civil or criminal case; and

(2) Compile a bi-annual report, to be submitted to the members of the senate judiciary committee and the members of the criminal justice and civil justice committees of the house of representatives, on all the existing litigation

taxes and fees that are imposed and the council's recommendations on whether each litigation tax or fee should continue.

(c) The council shall consider the following factors prior to making any recommendations as to pending legislation:

(1) The intended use of the litigation tax or fee proposed, and whether the proceeds will be used in connection with the administration of the case, the operation of the court, or the office of the court clerk;

(2) The nature and level of any litigation taxes and fees that are currently existing;

(3) The duration of the litigation tax or fee, and whether there is a date on which it terminates;

(4) The potential negative impact of the litigation tax or fee, including whether it impairs access to the justice system;

(5) Whether alternatives to or relief from the litigation tax or fee exists, such as community service in lieu of payment;

(6) Whether the judge or court clerk has discretion to relieve a debtor of litigation tax or fee obligations by modification or reduction based on the debtor's ability to pay;

(7) Whether the local government seeking to impose the litigation tax or fee has other substantial sources of general government revenue;

(8) The consequences of a person's failure to pay the imposed obligations; and

(9) Whether a judge's or a court's performance is evaluated based on generation of revenue from the imposition of legal financial obligations.

16-23-107.

Judges, chancellors, and other officers of the courts, whether of record or not, and all other state, county, and municipal officers shall submit reports to the council, as it requests, of matters within the scope of the council's duties.

16-23-108.

Members of the council shall not receive per diem or other compensation for their services, but may be reimbursed for actual expenses incident to attending council meetings, in accordance with the comprehensive travel regulations promulgated by the department of finance and administration and approved by the attorney general and reporter.

SECTION 3. This act shall take effect July 1, 2018, the public welfare requiring it.